

REMARKS

This responds to the Office Action mailed on September 25, 2006, and the reference cited therewith.

Claims 16, 17 and 21 are canceled and claim 26 is added. Thus, claims 1-15, 18 - 20, and 22 – 26 are now pending in this application.

Double Patenting Rejection

Claims 1-15, 18-20 and 22-25 were rejected under the judicially created doctrine of obviousness-type double patenting, specifically claims 1-17 of copending U.S. Application No. 11/157,472. Applicant does not admit that the claims are obvious in view of U.S. Application No. 11/157,472. However, a Terminal Disclaimer in compliance with 37 C.F.R. 1.321(b)(iv) is enclosed herewith to obviate these rejections.

§102 Rejection of the Claims

The Examiner has rejected claims 1-10, 12-15, 18-20 and 22-25 as being anticipated by the Mattai et al. reference, US Pat. No. 6,338,841 ('841). In particular, the Examiner has cited col. 8 to state that "Mattai further discloses that the specific antiperspirant active is an aluminum zirconium tetrachlorohydrate with glycine or zinc glycinate." The Examiner has also stated that "Mattai further discloses that the process temperatures are above 100C to ensure good mixing." The Applicant respectfully requests that the Examiner reconsider and withdraw the rejection for the reasons set forth.

Claim 1 of the present application is as follows:

A method for improving stability of an antiperspirant, comprising:

preparing a blend that comprises propylene glycol and dibenzylidene sorbitol; adding an antiperspirant active solid powder to the blend, to make an antiperspirant blend, in a concentration effective for making an antiperspirant that provides antiperspirant protection to a user and improves process stability of the antiperspirant; and **adding an amino acid salt to the antiperspirant blend in a concentration effective for stabilizing the dibenzylidene sorbitol.**

Claim 6 of the '841 reference, relied upon by the Examiner, describes that "the antiperspirant is an aluminum zirconium salt stabilized with glycine or zinc glycinate." However, as can be seen in claim 1, what is claimed is **adding an amino acid salt to the antiperspirant blend in a concentration effective for stabilizing the dibenzylidene sorbitol.** The Applicant asserts that it did not occur to authors of the '841 reference that an amino acid salt could stabilize dibenzylidene sorbitol because the authors relied upon addition of a silicone elastomer to mask the chemical instability of DBS, by decreasing tack of the final mixture. The only context in the '841 patent in which "glycine or zinc glycinate" was used was as a stabilizer for aluminum zirconium salts.

Furthermore, the manufacturing process, described in the EXAMPLE A of the '841 reference, col. 14, describes process temperatures of 80C to 92C, once the aluminum zirconium tetrachlorohydrex gly in propylene glycol is added. These temperatures are well below 105 C. claimed. The Applicant asserts that the reliance upon a silicone elastomer and use of lower process temps, once the antiperspirant was added show that the '841 reference does not anticipate what is claimed. To the contrary, the '841 reference teaches away from what is claimed because, while the reference mentions a use of a glycinate, the reference does not describe **adding an amino acid salt to the antiperspirant blend in a concentration effective for stabilizing the dibenzylidene sorbitol.**

§103 Rejection of the Claims

The Examiner has rejected claim 11 as being unpatentable over Mattai et al. reference, US Pat. No. 6,338,841 ('841), in view of Provancal et al. US Pat. No. 5,643,558 ('653).

For reasons discussed above, the Mattai reference does not anticipate embodiments claimed herein and does not render the claims obvious either. This is because neither the Mattai reference nor the Provancal et al. reference disclosed "adding an amino acid salt to the antiperspirant blend in a concentration effective for stabilizing the dibenzylidene sorbitol." The Provancal et al. patent describes adding an alkaline glycinate salt to propylene glycol, prior to addition of antiperspirant components. This solution is then subjected to vacuum evaporation to

remove most of the water and provide a polyhydric alcohol solution containing aluminum-zirconium chlorohydrate glycinate. The Provancal reference describes this order of addition as "critical" to prevent salt precipitation. This order is not described in Mattai or the claims herein. In claim 1, a blend of propylene glycol and dibenzylidene sorbitol (DES) is prepared and then an antiperspirant active powder is added to the blend and then an amino acid salt is added. According to the Provancal patent, this order should not produce an acceptable product because it should produce salt precipitation. However, Provancal does not describe a blend of propylene glycol and DES either. If anything, Provancal also teaches away from what is claimed herein. The combination of Mattai and Provancal are not two negatives that make a positive but two negatives that make a double negative. It is respectfully requested that the Examiner reconsider and withdraw the rejection.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6966 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,
ANTHONY ESPOSITO ET AL.
By their Representatives,
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(612) 373-6976

Date 26 March 07

By *Janice M. Kalis*
Janice M. Kalis
Reg. No. 37,650

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissions for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 26th day of March 2007.

PATRICIA A. HULTMAN

Name _____

Signature *Patricia A. Hultman*